

§ 15-189. Sentence of death; prisoner taken to penitentiary.

Upon the sentence of death being pronounced against any person in the State of North Carolina convicted of a crime punishable by death, it shall be the duty of the judge pronouncing such death sentence to make the same in writing, which shall be filed in the record of the case against the convicted person. The clerk of the superior court in which the death sentence is pronounced shall prepare a certified copy of the judgment or sentence of death, which shall include a copy of any notice or entries of appeal made in the case; if no entries or notice of appeal have been made or given in the case, a statement to the effect shall be included in the certificate of the clerk; it shall also be the duty of the district attorney, assistant district attorney, or attorney prosecuting on behalf of the State in the absence of the district attorney, to prepare and sign a certificate stating in substance that the attorney prosecuted the case on behalf of the State and that notice or entries of appeal have or have not been made or given in the case, and further that the attorney has examined a copy of the judgment or sentence of death certified by the clerk, including the copy of the notice or entries of appeal or statement to the effect that no appeal has been given, and to the best of the attorney's knowledge the same is correct; the certificate of the district attorney, or other prosecuting officer above named, shall be attached to the certified copy of the sentence of death, as prepared and certified by the clerk, and both certificates shall be transmitted by the clerk of the superior court in which the sentence of death is pronounced to the warden of the State penitentiary at Raleigh, North Carolina; at the same time and in the same manner, a duplicate original of the certificates shall be prepared by the clerk of the superior court and the district attorney, or other prosecuting officer above named, and the duplicate original or certificates shall be transmitted to the Attorney General of North Carolina. If notice of appeal is given or entries of appeal are made after the expiration of the term of superior court in which the sentence of death is pronounced, the certificates shall be prepared by the clerk of the superior court in which the sentence is pronounced and by the district attorney, or other prosecuting officer above named, prosecuting on behalf of the State, in the same manner and shall be transmitted as soon as possible to the warden of the State penitentiary at Raleigh, North Carolina, and to the Attorney General of North Carolina. The above certificates so prepared by the clerk of the superior court in which the sentence of death is pronounced and by the district attorney, or other prosecuting officer above named, shall be transmitted by the clerk of the superior court of the county where the sentence is pronounced to the warden of the State penitentiary at Raleigh, North Carolina, and to the Attorney General of North Carolina, not more than 20 or less than 10 days before the time fixed in the judgment of the court for the execution of the sentence; and in all cases where there is no appeal, the sentence of death shall not be carried out by the warden of the State penitentiary or by any of his deputies or agents until the certificates prepared and transmitted by the clerk of the superior court of the county where the sentence of death is pronounced, and by the district attorney, or the prosecuting officer above named, have been received in the office of the warden of the State penitentiary at Raleigh, North Carolina. In all cases where there is no appeal from the sentence of death and in all cases where the sentence is pronounced against a prisoner convicted of the crime of rape it shall be the duty of the sheriff, together with at least one deputy, to convey to the penitentiary, at Raleigh, North Carolina, the condemned felon or convict forthwith upon the adjournment of the court in which the felon was tried, and deliver the convict or felon to the warden of the penitentiary. (1909, c. 443, s. 3; C.S., s. 4659; 1951, c. 899, s. 1; 1973, c. 47, s. 2; 2022-47, s. 16(b).)